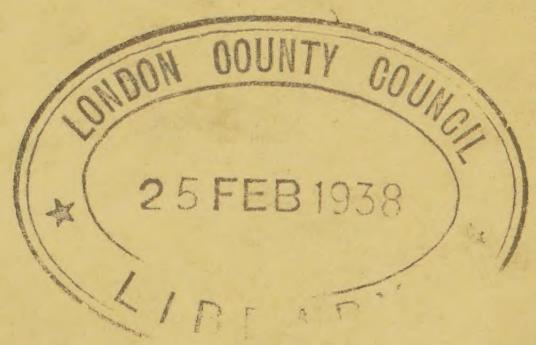


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A GUIDE TO THE FACTORIES ACT 1937



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A GUIDE TO THE FACTORIES ACT 1937

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FOREWORD.

The Factories Act of 1937 is an important milestone on the road to safety, health and welfare in industry. It marks the notable progress made in the last 36 years, leaving far behind it the Act of 1901 which will disappear next year from our factory law, and showing in its up-to-date provisions what should now be done to secure a further reduction in the toll of accidents and sickness, and a general advance in the conditions of factory life.

So great a measure is necessarily long and complicated, covering as it does a wide variety of operations, and applying both to large undertakings and to the smallest concerns. I hope this little book will help its readers to find their way about the Act and discover the changes in the law affecting the industry or employment with which they are particularly connected.

Samuel Hoare

HOME OFFICE,

December, 1937.

TABLE OF CONTENTS.

	PAGE
INTRODUCTION	5
PART I.—HEALTH (GENERAL PROVISIONS)	6
Cleanliness — overcrowding — temperature — ventilation — lighting—drainage of floors—sanitary conveniences—enforcement —power to require medical supervision.	
PART II.—SAFETY (GENERAL PROVISIONS)	9
Fencing of machinery—additional safeguards in connection with transmission machinery—fencing of materials or articles in machines—construction and sale of new machinery—fencing of vessels containing dangerous liquids—self-acting machines—cleaning of machinery by women and young persons—training and supervision of young persons working at dangerous machines—hoists and lifts—chains ropes and lifting tackle—cranes and other lifting machines—floors, passages and stairs—precautions against falls—precautions in confined spaces where dangerous fumes are liable to be present—precautions against explosions of dust or gas—steam boilers, steam receivers, steam containers, air receivers and water-sealed gasholders—means of escape and other precautions in case of fire—safety organization in factories.	
PART III.—WELFARE (GENERAL PROVISIONS)	17
Drinking water—washing facilities—clothing accommodation—seats —first aid.	
PART IV.—HEALTH, SAFETY AND WELFARE (SPECIAL PROVISIONS AND REGULATIONS)	19
Removal of dust or fumes—stationary internal combustion engines—meals in dangerous trades—eye protection—shuttle kissing—artificial humidity in textile works—underground rooms—basement bakehouses—weight-lifting.	
PART V.—NOTIFICATION AND INVESTIGATION OF ACCIDENTS AND INDUSTRIAL DISEASES	22
PART VI.—EMPLOYMENT OF WOMEN AND YOUNG PERSONS.	
Hours of Employment	22
Classes of employment affected	22
General conditions as to factory hours—overtime...	25
Special exceptions	29
Hours of young persons employed as van or errand boys or in certain other special occupations	35
Certificate of Fitness for Employment of Young Persons	36
PART VII.—SPECIAL APPLICATIONS AND EXTENSIONS	37
Premises in respect of which owner is liable—electrical stations—charitable and reformatory institutions—docks, wharves, quays, warehouses and ships—building operations—works of engineering construction—lead processes outside factories.	
PART VIII.—HOME WORK	43
PART IX.—PARTICULARS OF PIECE WORK AND WAGES	43
PART X.—MISCELLANEOUS...	44
PART XI.—ADMINISTRATION	44
PART XII.—OFFENCES, PENALTIES AND LEGAL PROCEEDINGS	45
PART XIII.—APPLICATION OF ACT	46
PART XIV.—INTERPRETATION AND GENERAL	46
Interpretation of expression "factory"—other definitions, etc.	

THE FACTORIES ACT

1937

INTRODUCTION

THE new Factories Act is designed to secure safe and healthy working conditions in manufacturing and certain other operations. It is a consolidating and amending measure, and will replace the Factory and Workshop Act of 1901 and various later Acts. It follows broadly the lines of the Act of 1901, but contains many new provisions based on modern practice and also embodies a large number of changes, suggested by experience, on points of detail. One of its most important features is that it greatly reduces the permissible working hours laid down in previous Factory Acts both for women and for young persons. It also regulates for the first time the working hours of some additional classes of employees under 18 connected with factories, such as errand boys and van boys.

The existing Acts embrace almost all manufacturing establishments, and in this respect the new Act makes no great change. But the old distinctions between a factory and a workshop and between a textile and a non-textile factory are abolished, and the expression "workshop" disappears, only one term, "factory", being employed. The exceptional latitude previously allowed for what were called "men's workshops" and "domestic" factories and workshops will also disappear. Some of the provisions of the new Act have a limited application, but the Act generally applies to all "factories." (As to the meaning of this expression see under Part XIV—page 46.)

Generally speaking the *occupier* of the factory is responsible for seeing that the Act is observed, but in certain cases, particularly in the case of a tenement factory or of a building of which a part is let off as a separate factory, the *owner* of the tenement factory or building is made responsible for some of the provisions, such as those relating to means of escape in case of fire. The Act also places certain specific obligations on employed persons, with a view, e.g., to ensuring their co-operation with employers by the proper use of safety and other appliances.

The Act does not actually come into force until the 1st July, 1938, but considerable reorganization of working hours and alterations of plant or equipment will be necessary in a number of cases, and

employers in particular would therefore be well advised to read the Act *now*, if they have not already done so, and obtain any necessary expert advice, with a view to seeing that their works and arrangements are in conformity with the new law by the date in question.

This pamphlet is intended to be a guide or pointer to help employers and others concerned in finding the changes or additions in the law which will affect them. It does not claim to mention all the alterations, and for detailed information as to the precise requirements, readers are referred to the Act itself.*

The Secretary of State has various powers under the Act to make regulations prescribing standards of temperature, ventilation, lighting, sanitary accommodation and so forth, or laying down or applying special or more detailed requirements for particular industries or classes of case. In the present pamphlet these powers are not usually mentioned in connection with the particular sections which confer them—to do so would involve cumbersome detail, and special steps will be taken by the Home Office to give publicity to any proposed regulations.

Regulations and Orders in force under the earlier Acts will continue in force and have effect as though made under the new Act, unless and until varied or revoked. (*Section 159.*)

PART I.—HEALTH (GENERAL PROVISIONS)

Part I of the Act contains various general requirements relating to cleanliness, overcrowding, temperature, ventilation, lighting, drainage of floors, and sanitary conveniences. It also contains provisions assigning to Local Authorities a share in the enforcement of these requirements. Further, it includes a new Section giving the Secretary of State power to require medical supervision in particular cases or classes of case where there is reason to fear risk of injury to health.

Cleanliness. (*Section 1.*)

The general rule that every factory shall be kept in a clean state is supplemented by two new definite requirements :—

(a) accumulations of dirt and refuse must be removed daily from floors and benches of workrooms and from the staircases and passages ;

(b) the floor of every workroom must be cleaned at least once a week by washing or, if it is effective and suitable, by sweeping or other method.

* This can be purchased from H.M. Stationery Office (directly or through any bookseller) for half-a-crown.

Further

(c) the provisions as to cleaning or whitewashing or colour-washing walls and tops of rooms, passages and staircases at least once in every 14 months are modernized and made more precise.

As indicated in the introduction, the above provisions are *not*, like *Section 1* of the Act of 1901, limited to "factories" in the old sense of the term and there is no exception for "domestic factories"; but paragraph (c) does not apply to a factory where mechanical power is not used* *and less than 10 persons are employed* unless the Medical Officer of Health or the District Inspector of Factories, as the case may be, so directs.

The Secretary of State has power to exempt from or vary the above provisions in special classes of case where they are unnecessary, inappropriate or inadequate.

Overcrowding. (Section 2.)

The main changes here are that the standard for prevention of overcrowding in workrooms is raised from 250 to 400 cubic feet per person and that no space more than 14 feet from the floor is to be taken into account in making the calculation.

A concession is, however, made as respects rooms used as workrooms on the 30th July, 1937 (the date of the passing of the Act). In such rooms the figure need not be more than 250 at any time during the next five years, and if before the end of that period (i.e., before 30th July, 1942) effective and suitable *mechanical* ventilation has been provided, during a further period of five years. The District Inspector (or Medical Officer of Health as the case may be) may require such ventilation to be provided during the first five years. The concession will cease to apply if the ventilation provided ceases to be maintained. It will also cease to apply if the room passes into the occupation of someone other than the person who was the occupier on 30th July, 1937, or his successor in the same business.

The Secretary of State may fix a higher figure than 400 (or 250 as the case may be) for particular descriptions of works, and as above indicated the present Order fixing higher figures for certain bakeries will continue in operation.

Temperature. (Section 3.)

In addition to the general provision which requires a reasonable temperature to be maintained in every workroom, there is a new

* Mechanical power used only for heating, ventilating or lighting the workrooms or other parts of the factory does not count for this purpose. See *Section 152 (3)*.

requirement applying to workrooms in which a substantial proportion of the work is done sitting and does not involve serious physical effort. In such rooms :—

- (a) a temperature of not less than 60°F. must, after the first hour, be maintained while work is going on, and
- (b) at least one thermometer must be provided in a suitable position.

Ventilation. (Section 4.)

Adequate ventilation of workrooms must be secured by the circulation of fresh air, and any injurious fumes or other impurities generated in the course of any work must, so far as practicable, be rendered harmless. (Special measures for removing dust and fumes are dealt with in *Section 47*—see page 19.)

Lighting. (Section 5.)

This introduces a new provision requiring sufficient and suitable lighting, whether natural or artificial, in every part of a factory in which persons are working or passing.

All glazed windows and skylights used for lighting workrooms must, so far as practicable, be kept clean and free from obstruction. This is not, however, to prevent whitewashing or shading of windows and skylights for the purpose of mitigating heat or glare.

Drainage of floors. (Section 6.)

This is required by *Section 6* where the manufacturing process makes the floor so wet that the wet can be removed by drainage.

Sanitary Conveniences. (Section 7.)

Under *Section 7* these must be sufficient and suitable and kept clean, and effective provision must be made for lighting them. If both sexes are employed there must (unless all those employed are members of the same family living at the factory) be separate accommodation for each sex.

Enforcement. (Section 8.)

Local Authorities* are to enforce :—

- (a) in the case of all factories, the provisions as to sanitary conveniences ;
- (b) in the case of factories in which mechanical power is not used,† the other provisions of Part I referred to above except those as to lighting.

* The Home Office contemplate issuing a memorandum to Local Authorities as to their duties under the Act. The Authorities referred to here are, in London the City or Metropolitan Borough Council, in the rest of England and Wales the Borough or Urban or Rural District Council, and in Scotland the County Council or, in a burgh, the Town Council.

† See footnote on page 7.

There are two exceptions to (b), namely (i) cases (if any) specified by the Secretary of State where there are special provisions in the Act or Regulations against risk of industrial disease or other injury to health, and (ii) certain railway, dock and canal premises. In such cases enforcement will rest with the Factory Inspectors. Crown factories are also outside the jurisdiction of Local Authorities (*Section 150 (2)*).

Power to require medical supervision. (*Section 11.*)

Section 11 gives the Secretary of State certain powers for requiring medical supervision in particular circumstances, e.g., where he has reason to believe that cases of illness which have occurred may be due to the conditions of work, or that some new process may cause risk of injury to health or that some work on which young persons are being employed may cause risk of injury to their health.

PART II.—SAFETY (GENERAL PROVISIONS)

This Part of the Act is much more elaborate than the safety provisions in the Act of 1901. It not only strengthens them, but also contains many new requirements relating to lifts, chains, ropes, lifting tackle, cranes, steam or air receivers, etc., and requires various precautions against falls, gassing and explosions.

Fencing of Machinery. (*Sections 12 to 16.*)

The general principle is maintained that every part of the transmission machinery (called in the old Act "mill-gearing") and every dangerous part of any other machinery must be securely fenced unless it is in such a position or of such construction as to be as safe to every person employed or working on the premises as it would be if securely fenced. All parts of electric generators, motors, and rotary converters, and flywheels directly connected to them, are also subject to this requirement; while all moving parts of other prime movers, and flywheels directly connected to them, must be securely fenced irrespective of their position, and so must the head and tail race of a water wheel or water turbine. "Prime mover" and "transmission machinery" are defined in *Section 152*.

Approaching unfenced machinery.

In the past, a good deal of latitude has been allowed as respects occasional approach to unfenced machinery in motion. Under the new Act, this will be much more strictly limited and controlled. If a part of the machinery is left unfenced on the ground that it is safe by reason of its position, effective steps must be taken by the factory occupier to prevent anyone from getting within the danger zone while the machinery is running. Under *Section 15* there is an exception

strictly confined to the case of a person carrying out an *examination* of that part of the machinery, or any lubrication or adjustment shown by such examination to be immediately necessary. A person so engaged may approach the machinery for that purpose if

- (i) the examination, lubrication or adjustment is one which must be carried out while the part of machinery is in motion,
- (ii) it is done by a male person aged at least 18, and
- (iii) any further conditions laid down in regulations made by the Secretary of State are complied with.

Similarly, the removal of the fencing or other safeguards while the parts required to be fenced or safeguarded are in motion or in use, will now only be permitted where such parts are necessarily exposed for *examination* and for any lubrication or adjustment shown by such examination to be immediately necessary. The exception in Section 10 of the Act of 1901 for machinery under repair, etc., is thus substantially narrowed.

The Secretary of State has power to authorise, for the purpose of lubrication or belt-mounting, approach to parts of transmission machinery when in motion and not securely fenced, if it is used in a continuous process where stoppage would seriously interfere with the process.

Additional Safeguards in connection with transmission machinery.

There are three important new requirements in *Section 13* :—

(a) Devices or appliances for promptly cutting off the power from the transmission machinery in the room or place must be provided in every room or place where work is carried on. This will involve in many cases the provision of stop-buttons, switches, additional clutches for shafting, or other devices.

(b) Driving belts must not rest or ride on revolving shafts when the belt is not in use. This will commonly mean the provision of belt perches, sleeveguards over shafting, or other arrangements to prevent the belt falling onto the shaft.

(c) Striking gear or other efficient mechanical appliances must be provided and used to move driving-belts to and from fast and loose pulleys, and must be such as to prevent the driving belt from creeping back onto the fast pulley.

The Secretary of State can grant exemptions from these requirements where satisfied that they are unnecessary or impracticable.

Fencing of materials or articles in machines.

There is a new requirement (*Section 14 (3)*) as to fencing stock-bars of lathes, and the Secretary of State may make regulations as to fencing of other materials or articles in machines.

Construction and sale of new machinery. (Section 17.)

A new principle is introduced in *Section 17*. In the case of machines constructed after 30th July, 1937,* and intended to be driven by mechanical power, certain requirements as to the sinking or guarding of set-screws, gearing, etc., must be complied with. When the machine is in a factory, the occupier of the factory is responsible for seeing that this is the case ; but it is made an offence for any person to sell or let on hire (or as agent for the seller or hirer to cause or procure to be sold or let on hire) for use in a factory in the United Kingdom a machine which does not comply with the requirements.

Fencing of vessels containing dangerous liquids. (Section 18.)

A fixed vessel, structure, sump or pit of which the edge is less than 3 feet above the adjoining ground or platform must, if it contains a scalding, corrosive or poisonous liquid, be covered or be fenced to at least that height. Where that is impracticable owing to the nature of the work, all practicable steps must be taken to prevent persons from falling into it.

Self-acting machines. (Section 19.)

This Section, the main purpose of which is to prevent traversing parts of self-acting machines from running too close to adjacent fixed structures, follows substantially the existing law. The main differences are :—

- (a) the prohibition is extended to cover material carried on the traversing part of the machine as well as the part itself ;
- (b) it applies to the inward traverse as well as the outward.

Cleaning of machinery by women and young persons. (Section 20.)

This is more stringent than existing law. No woman or young person may clean :—

- (a) any part of a prime mover or of any transmission machinery while the prime mover or transmission machinery is in motion, or
- (b) any part of any machine if this would expose the woman or young person to risk of injury from any moving part either of that machine or of any adjacent machinery.

Training and supervision of young persons working at dangerous machines. (Section 21.)

This important new Section lays down the principle that a young person must not work at a dangerous machine unless :—

- (i) he has been fully instructed as to the dangers arising in connection with the machine and the precautions to be observed, and

* This does not include machines of which the construction was begun before that date. See *Section 152 (2)*.

(ii) he has received a sufficient training in work at the machine or is under adequate supervision by a person who has a thorough knowledge and experience of the machine.

It is left to the Secretary of State to specify the machines to which the Section will apply.

Hoists and Lifts. (Section 22.)

This Section greatly elaborates and strengthens the law. Factory occupiers and others concerned with the construction and installation of lifts are referred to the Section itself for details of the requirements which relate mainly to :—

- (i) proper construction and maintenance ;
- (ii) thorough examination every six months ;
- (iii) protection of the lift-well ;
- (iv) interlocking gates for the well ;
- (v) safe working loads ;
- (vi) additional safeguards (e.g., interlocking gates for cages) where persons are carried, whether with goods or otherwise.

(As regards fire-resisting enclosure of lift-wells in new buildings see *Section 36 (4) and (5)*).

Teagle openings and similar doorways must be fenced and provided with a hand-hold on each side of the opening or doorway.

The requirements are modified for continuous hoists and for hoists not connected with mechanical power, and the Secretary of State has powers of exemption.

Chains, ropes, and lifting tackle. (Section 23.)

Cranes and other lifting machines. (Section 24.)

Provisions as to such lifting appliances and machines, based on good modern practice, are applied for the first time to factories generally. The main points dealt with are :—

- (i) marking of, or tables showing, safe working loads, and overloading ;
- (ii) thorough periodic examination within specified periods ;
- (iii) initial testing and certification before being taken into use in the factory ;
- (iv) periodic annealing of chains and lifting tackle ;
- (v) registers of chains, etc.
- (vi) size and construction of rails of travelling cranes, etc.

In the case of an *overhead travelling crane* effective measures must be taken by warning the driver of the crane or otherwise to ensure that it does not approach within 20 feet of a place on or near the wheel-track where a person is employed or working and would be liable to be struck by the crane.

Floors, passages, gangways, steps, stairs, and ladders. (Section 25.)

These must be soundly constructed and properly maintained.

Openings in floors must be securely fenced except in so far as the nature of the work renders this impracticable.

A handrail is required for staircases in buildings or affording a means of exit from a building. If the staircase has an open side it must be on that side. If there are two open sides, and in certain other cases of special risk, there must be a handrail on both sides. An open side of a staircase must also be guarded by a lower rail or other effective means.

Precautions against falls.

Section 26 requires, so far as is reasonably practicable :—

- (i) the provision of safe means of access to every place at which any person has at any time to work, and
- (ii) the provision of means, by fencing or otherwise, for ensuring the safety of any person who is to work at a place from which he would be liable to fall more than 10 feet and which does not afford secure foothold and, where necessary, secure handhold.

Precautions in confined spaces where dangerous fumes are liable to be present.

Section 27 introduces new general provisions applying to a wide variety of places and plant, such as chambers, tanks, pits and pipes, where dangerous fumes are liable to be present to such an extent as to involve the risk of persons being overcome by the fumes. (Fume is defined in *Section 152* as including gas or vapour.) Requirements are laid down as to :—

- (a) manholes of a certain size unless there is other adequate means of egress ;
- (b) (i) taking steps to remove fumes and to prevent fumes from entering and (unless certain conditions are fulfilled) wearing a life belt, or
 - (ii) wearing breathing apparatus ;
- (c) provision and periodic inspection of breathing apparatus, reviving apparatus, and belts and ropes ;
- (d) training in the use of the apparatus and in artificial respiration.

The Chief Inspector has certain powers of exemption.

(*Note*.—Somewhat more stringent requirements are already laid down by Regulations for particular classes of works. See Chemical Works Regulations, 1922.)

Work in boiler-furnaces or boiler flues.

This is not to be permitted until the furnace or flue has been sufficiently cooled (*Section 27 (2)*).

Precautions against dust explosions.

In connection with various grinding, sieving and other processes giving rise to dust, the dust is of such a character and is liable to be present in the plant, or to escape into the workroom, to such an extent that there is risk of explosion. Many common materials, for example flour and other grain substances, when present in sufficient quantity as a dust cloud, are liable to cause or spread explosions. *Sections 28 (1) and (2)* of the Act require various precautions in such cases such as :—

- (i) enclosure of the plant to prevent escape of dust into the workroom ;
- (ii) removal or prevention of accumulation of the dust ;
- (iii) exclusion or effective enclosure of possible sources of ignition ;
- (iv) provision of chokes, baffles and vents in connection with the plant, to restrict the spread and effects of explosion.

Opening up of plant containing explosive or inflammable gas or vapour under pressure.

Section 28 (3) requires various precautions to be taken when such plant is opened—with an exception for plant installed in the open air, and a power to the Chief Inspector to grant exemptions in other cases.

Welding, soldering, etc., on plant, tanks or vessels which contain or have contained explosive or inflammable substances.

Section 28 (4) provides that no such plant, tank or vessel shall be subjected to any welding, brazing or soldering operation or to any cutting operation which involves the application of heat, until all practicable steps have been taken to remove the substance and any fumes arising from it, or to render them non-explosive or non-inflammable ; and no such substance is to be allowed to enter afterwards until the metal has sufficiently cooled. The Chief Inspector may grant exemptions.

Steam boilers, steam receivers, steam containers, air receivers. (*Sections 29 to 32.*)

The present provisions as to steam boilers on factory premises have been considerably elaborated. “ Steam boiler ” is defined in *Section 29 (14)* and includes the ordinary economisers and steam superheaters.

New provisions are introduced as to fittings, periodic examination, etc., of steam receivers, steam containers, and air receivers. These expressions are defined in *Sections 30 (7) and 31 (5)*.

The Chief Inspector may grant exceptions from particular requirements (*Section 32*).

Water-sealed Gasholders. (*Section 33.*)

Requirements are laid down as to the sound construction, proper maintenance and periodic examination of water-sealed gasholders with a storage capacity of 5,000 cubic feet or more.

Fire—means of escape, etc. (*Sections 34 to 37.*)

Certificate from Local Authority as to means of escape (*Section 34*).

The law on this subject is much strengthened. Every factory coming within this Section must have such a certificate, and the classes of factory subject to this requirement have been much widened. Further, the certificate will have to be more precise, and provision is made for cancelling or amending the certificate should conditions at the factory change materially. *A fresh certificate will be required under the new Act even where a certificate was obtained under the Act of 1901.*

In districts with large numbers of factories the issue of new certificates will necessarily take some little time ; but occupiers of factories affected who do not receive before or shortly after the 1st July, 1938, a visit or communication from an officer of the Local Authority* preliminary to the issue of a certificate, would be well advised to get into touch with the Local Authority. This would be specially important (i) if the factory was not certified under the Act of 1901, or (ii) if, since such a certificate was granted, there has been any material extension or structural alteration of the factory or the number of persons employed has materially increased, or an explosive or highly inflammable material has begun to be stored or used, or stored or used to a materially increased extent.

Section 34 applies to :—

- (a) all factories in which more than 20 persons are employed ;
- (b) factories constructed or converted for use as factories after 30th July, 1937, in which more than 10 persons are employed in the same building on any floor above the ground floor ;

* See footnote on page 8 ; but for the purposes of this Section the Local Authority for the County of London is the London County Council.

(c) factories constructed before 30th July, 1937, in which more than 10 persons are employed in the same building above the first floor or more than 20 feet above the ground level;

(d) factories in or under which explosive or highly inflammable materials are stored or used.

The occupier may appeal to a court of summary jurisdiction against a refusal of a certificate or a requirement to make alterations at the factory (*Section 34 (10)*). There are also certain rights of applying to the County Court to modify agreements or apportion expenses between the occupier and the owner of the factory (*Sections 146 and 147*).

After a certificate has been granted the occupier has certain further duties :—

(a) to maintain and keep free from obstruction the means of escape specified in the certificate (*Section 34 (2)*);

(b) to notify the Local Authority (*Section 34 (5)*) if it is proposed :—

(i) to make a material extension or structural alteration of the factory premises, or

(ii) to increase materially the number of persons employed, or

(iii) to store or use an explosive or highly inflammable material, or to do so to a materially increased extent.

Further, the contents of any room in which persons are employed must be so arranged or disposed that there is a free passage-way for all persons employed in the room to a means of escape (*Section 36 (8)*).

Regulations and Local Byelaws may be made as to means of escape (*Section 35*).

Doors. The new Act extends previous requirements as to certain doors in a factory not being locked or fastened in such a manner that they cannot be easily opened from the inside, and as to certain doors, unless they are sliding doors, being constructed to open outwards. For instance, the first requirement is extended to apply to any doors affording a means of exit for persons employed in the factory from any building or from any enclosure in which the factory is situated. For the precise requirements see *Section 36 (1) (2) and (3)*.

Enclosure of lift-wells with fire-resisting materials. Requirements on this subject are laid down for new buildings—see *Section 36 (4) and (5)*.

Marking of fire exits by a notice in red is required by *Section 36 (6)*.

Provision for giving warning, audible throughout the building, in case of fire, is required (Section 36 (7)) :—

- (i) where in any factory more than 20 persons are employed in the same building ;
- (ii) where in any factory explosive or highly inflammable materials are stored or used in any building in which persons are employed.

Fire instruction. (Section 37.) In the following cases, namely :—

- (i) where in any factory more than 20 persons are employed in the same building above the first floor or more than 20 feet above the ground level,
- (ii) where in any factory explosive or highly inflammable materials are stored or used in any building in which persons are employed,

effective steps must be taken to ensure that all the persons employed are familiar with :—

- (a) the means of escape and their use ;
- (b) the routine to be followed in case of fire.

Safety organization in factories.

Section 38 re-enacts a provision in the Workmen's Compensation Act of 1923 empowering the Secretary of State to require special safety arrangements in particular factories or classes of factories. Since that date Safety Committees and other safety organizations have become much more widely established and the compulsory powers have not been exercised.

PART III.—WELFARE (GENERAL PROVISIONS)

This Part of the Act re-enacts the provisions empowering the Secretary of State to make Welfare Orders (now to be called Welfare Regulations) for particular industries or factories ; but it also lays down certain new *general* requirements as to drinking water, washing facilities, accommodation for clothing, facilities for sitting, and First Aid.

Drinking Water. (Section 41.)

This Section applies to all factories irrespective of size, and the main requirements are that there shall be provided an adequate supply (conveniently accessible to all persons employed) of drinking water from a public main or from some other source approved in

writing by the District Council, with one or more drinking vessels or an upward jet.

Washing facilities. (Section 42.)

Adequate and suitable facilities for washing, conveniently accessible, are to be provided for the use of employed persons, with soap and clean towels or other suitable means of cleaning or drying. The Section does not come into operation until the 1st July, 1939, except as respects persons employed in a process in which lead, arsenic or other poisonous substance is used (for whom washing facilities are already required by existing law) or in any process prescribed by the Secretary of State which is liable to cause dermatitis or other affection of the skin. For such persons the Section comes into operation on the same date as the Act generally (1st July, 1938). The Secretary of State has power to make regulations prescribing standards or providing for exemptions in special circumstances.

Accommodation for clothing. (Section 43.)

Adequate and suitable accommodation for clothing not worn during working hours is to be provided for the use of employed persons ; and such arrangements as are practicable must be made for drying such clothing. The Secretary of State may make regulations prescribing standards or providing for exemptions in special circumstances.

Facilities for sitting. (Section 44.)

For the use of all female workers whose work is done standing, suitable facilities for sitting must be provided, sufficient to enable them to take advantage of any opportunities for resting which may occur in the course of their employment.

First Aid. (Section 45.)

These requirements will in future apply to all factories irrespective of whether mechanical power is used. A first aid box or cupboard of the prescribed standard is required (more than one if more than 150 persons are employed at a time) ; each box must be in charge of a responsible person who must always be readily available during working hours, and whose name must be posted in each workroom for which the box is provided. A *new* requirement is that if more than 50 persons are employed in a factory the person in charge of each box must be trained in first-aid treatment. If there is an ambulance room at the factory the Chief Inspector may grant exemption from the requirements.

PART IV.—HEALTH, SAFETY AND WELFARE (SPECIAL PROVISIONS AND REGULATIONS)

This Part of the Act contains a number of provisions of a miscellaneous character. Some are new—see in particular those relating to internal combustion engines, eye protection, underground rooms, and lifting excessive weights. Others strengthen existing law, the most important being Section 47, as to removal of dust or fumes. The rest are mainly re-enactments with modifications.

Removal of dust or fumes.

Section 47 (1) strengthens existing law on the subject of special ventilation and other precautions where dust or fume* is given off in connection with any process. The subsection applies where there is given off :—

- (i) any dust or fume or other impurity of such a character and to such extent as to be likely to be injurious or offensive to the persons employed ;
- (ii) *any substantial quantity of dust of any kind.*

In such cases all practicable measures must be taken to protect the workers against breathing the dust, fume or other impurity *and to prevent it accumulating in a workroom*, and in particular, exhaust ventilation as near as possible to the point of origin of the dust or fume must be provided where practicable.

Stationary internal combustion engines.

Section 47 (2) requires :—

- (i) provision for conducting the exhaust gases from the engine to the open air ;
- (ii) such engines (except engines under test) to be partitioned off from a workroom so as to prevent any injurious fumes from entering the room.

Meals in certain dangerous trades.

Section 48 somewhat strengthens existing law as to :—

- (i) not partaking of food or drink in a room in which lead, arsenic, or other poisonous substance is so used as to give rise to dust or fume ;
- (ii) not remaining in such a room during meal times ;
- (iii) making suitable provision to enable persons employed in such a room to take their meals elsewhere in the factory.

The prohibition in (ii) above does not apply to a short interval of less than half-an-hour allowed in the course of a spell.

* “Fume” includes gas or vapour. (*Section 152.*)

Protection of eyes.

Section 49 requires goggles or screens in processes specified by the Secretary of State.

Shuttle kissing in cloth-weaving factories.

Section 50 empowers the Secretary of State to make special regulations on this subject.

Humid factories.

A humid factory (defined in *Section 152*) means a factory in which atmospheric humidity is artificially produced by steaming or other means in connection with any textile process. *Section 52* simplifies the law on the subject of artificial humidity as follows :—

(a) it re-enacts in general terms the requirement that notice is to be given to the District Inspector on or before the first occasion on which artificial humidity is produced at a humid factory ;

(b) as regards those factories (e.g., cotton cloth, flax and tow, hemp and jute) for which there are regulations in force as to humidity, the section leaves to the regulations the requirements as to artificial humidification, temperature records, etc. ;

(c) other humid factories are brought under a single and revised set of provisions. The most important change is that artificial humidification is prohibited when the wet bulb thermometer reading exceeds $72\frac{1}{2}$ degrees, or, in the case of (i) cotton spinning, (ii) merino or cashmere spinning by the French or dry process, or (iii) spinning or combing wool by that process, 80 degrees.

Underground rooms.

Section 53 introduces new provisions as to underground rooms as defined in that section (roughly, a room of which half the height is below ground level).

(1) No work is to be carried on in an underground room in a factory if the District Inspector of Factories certifies that the room is unsuitable for the purpose as regards construction, height, light or ventilation, or on any hygienic ground, or on the ground of inadequate means of escape in case of fire. There is an exception for rooms used only for the purpose of storage or other purpose specified by the Secretary of State.

(2) In the case of an underground room which at the commencement of the Act (1st July, 1938) did not form part of or was not used as a workroom in a factory, the occupier must

notify the District Inspector before the room is used for work for which it could be certified as unsuitable under (1); and further, he must not without the Inspector's written consent use it for any process specified by the Secretary of State which is hot, wet or dusty, or liable to give off fume.

Provision is made for an appeal to the Courts against the Inspector's decision.

Basement bakehouses.

Section 54 re-enacts existing law prohibiting the use of basement bakehouses (as defined in *Sections 54 and 152 (1)*) other than previously existing bakehouses which were certified as suitable by the Local Authority. It also strengthens the law in two ways:—

(1) Provision is made for the Local Authority to review their certificates in the first year after the Act comes into force and every 5 years thereafter. The occupier may appeal to the Courts against the Council's decision to terminate a certificate.

(2) If a basement bakehouse is not used as a bakehouse for 12 months it must not be so used again.

The prohibition is to be enforced by the Local Authority.

Laundries.

Section 55 re-enacts in somewhat stronger form provisions in the Factory and Workshop Act of 1907 as to regulating temperature in ironing rooms, carrying away steam in wash-houses, as to stoves for heating irons, and as to gas irons.

Lifting excessive weights.

Section 56 introduces a new provision to the effect that a young person shall not be employed to lift, carry or move any load so heavy as to be likely to cause injury to him. It also empowers the Secretary of State to make special regulations as to weight lifting by any class of persons employed in factories.

Female young persons not to be employed in certain parts of factories.

Section 57 re-enacts, but with modifications, some provisions in Section 77 of the Act of 1901 prohibiting the employment of girls in those parts of glass and salt works where certain processes are carried on. The prohibition applies to girls up to 18.

The rest of Part IV:—

(i) re-enacts the existing prohibition of the use of white phosphorus in the manufacture of matches (*Section 51*);

(ii) re-enacts provisions of the Women and Young Persons (Employment in Lead Processes) Act, 1920, so far as regards employment in factories (*Sections 58 and 59*). Employment in lead processes elsewhere than in factories is dealt with in *Section 109*—see page 43;

(iii) re-enacts in substance existing provisions empowering the Secretary of State to make special regulations for dangerous trades (*Section 60*);

(iv) gives power to make illegal the importation and sale of articles made with a material or by a process prohibited in factories in this country and re-enacts the prohibitions on import and sale of white phosphorus matches (*Section 61*);

(v) makes general provision as to the taking of samples by Inspectors (*Section 62*);

(vi) re-enacts an existing provision as to building plans relating to cotton cloth factories (*Section 63*).

PART V.—NOTIFICATION AND INVESTIGATION OF ACCIDENTS AND INDUSTRIAL DISEASES

This part of the Act re-enacts, with practically no change, existing law as to notifying accidents, dangerous occurrences, and cases of industrial disease. The provisions as to inquests are modernized on the lines of those in the Coal Mines Act, 1911.

PART VI.—EMPLOYMENT OF WOMEN AND YOUNG PERSONS

This Part of the Act deals with hours and holidays for women over 18 and for young persons, and also with Certificates of Fitness for young persons. There are two sets of provisions as to hours—one for ordinary factory workers, and the other applicable to some classes of young persons whose hours have not previously been regulated, e.g., certain van boys and errand boys employed wholly or mainly outside the factory. Both sets are based on a forty-eight hour week, with a forty-four hour week after June, 1939, for those under 16, and with certain amounts of overtime for women and for young persons aged 16 or over.

HOURS OF EMPLOYMENT

(A) Classes of employment affected.

These are wider so far as young persons are concerned than under the previous Factory Acts. The new Act regulates the hours of employment of the following:—

(1) Women and young persons employed in factories, *including* young persons who work in a factory (or who are employed in the business of a factory) in collecting, carrying or

delivering goods, carrying messages or running errands (*Sections 153 and 98*). In such cases, what may be termed "factory hours"—see (B) below—will apply, except that the hours of young persons employed *wholly or mainly outside* the factory in the occupations just mentioned will be regulated by the different provisions as to hours set out in *Section 98*—see (H) below—unless the employer notifies the District Inspector that he wishes to apply the factory hours to them.

(2) Young persons employed :—

(a) in or in connection with any process (other than a process covered by (3) below) carried on at a *dock, wharf, or quay*, or at a *warehouse*,* or in collecting, carrying or delivering goods, carrying messages or running errands in the business of a dock, wharf, quay or warehouse,* if employed by a person having the use or occupation of the dock, wharf, quay or warehouse, or of premises within it or forming part of it;

(b) in or in connection with the processes of *loading, unloading or coaling a ship* in a dock, harbour or canal.

In such cases the hours provisions set out in *Section 98* apply unless the employer notifies the District Inspector that he wishes to apply "factory hours".

(3) Young persons employed in *certain work at ships in a harbour or wet dock* (see *Section 106*), namely :—

(a) constructing, reconstructing, repairing, refitting, painting, finishing or breaking up a ship, or

(b) scaling, scurfing or cleaning boilers (including combustion chambers and smoke boxes) in a ship.

In such cases "factory hours" will apply (but not the provisions as to Sunday employment and annual holidays) subject to any modifications made by regulations of the Secretary of State to meet special circumstances.

(4) Women and young persons in certain *charitable or reformatory institutions*—see *Section 104* which is substantially the same as existing law. In such cases the new provisions as to hours in factories will apply, but the managers of the institution may, if the Secretary of State approves, substitute a not less favourable scheme for regulating the hours of employment of the inmates.

"Woman" means a woman who has attained the age of 18—*Section 152 (1)*; but the provisions as to hours, Sundays, and holidays do not apply (i) to women holding responsible positions of management who are not ordinarily engaged in manual work

* This does not include :—

- (i) A warehouse forming part of a factory, where factory hours will apply, or
- (ii) A warehouse under the Shops Act, 1934, where shop hours will apply.

(*Section 79*), or (ii) to *women* employed solely in cleaning a factory or any part thereof, otherwise than in cleaning which is incidental to or connected with any process (*Section 152 (4)*).

“ Young Person ” means broadly a person between the ages of 14 and 18 who is no longer required to be sent to school (for the precise legal definition see *Section 152 (1)*).

(B) Plan of the requirements as to Factory Hours.

The scheme of hours which will be normally permissible for the particular factory is to be fixed by the occupier by a notice (in prescribed form) posted in the factory, which must specify for each day of the week the earliest and latest times for beginning and ending (these fix the normal period of employment for that day—see below) and the intervals for meals or rest (*Section 72*). The scheme of hours so fixed must, however, be so arranged as to comply with certain general conditions (see (C) below) as to the maximum number of hours worked in a week and in a day, as to the times for beginning and ending, as to the maximum length of a spell of continuous employment, and as to the periods of employment and intervals being the same for all women and young persons employed in the factory. Different periods of employment and different intervals may be fixed for different days of the week. The scheme may not as a rule be changed oftener than once in three months.

The general conditions may in some classes of case be modified in various ways provided that the occupier complies with certain conditions, including conditions as to giving notice (see below under “ (F) Special Exceptions ”).

The “ period of employment ” for a woman or young person for any day is the period (inclusive of the time allowed for meals and rest) within which the woman or young person may be employed on that day (see definition in *Section 152*). Any time during which any woman or young person is at work in the factory outside the period of employment as fixed by the notice is “ overtime ”. For the purpose of working “ overtime ” in this legal sense the period of employment may be extended within certain limits (see (D) below as to the conditions under which overtime may be worked); but it is not necessary to alter the notice fixing the normal period of employment. Supplementary notices have to be given on occasions when overtime is worked.

It should be appreciated that the purpose of the notice under *Section 72* is to fix the scheme of hours selected by the occupier for complying with the *legal maximum* limits allowed apart from overtime, and to provide the basis from which overtime in the legal sense is to be calculated. In cases where the hours ordinarily worked in practice fall short of the legal maxima the occupier is

not required to fix the former hours in the notice—if he did so, any time worked beyond the ordinary would reckon as overtime for the purposes of the Act, even though the whole or part of it might fall within a total of 48 hours in the week and 9 in the day. The hours fixed in the notice as permissible do not preclude the working of shorter hours either ordinarily or in slack periods; nor does the notice imply that full permissible hours as fixed by the notice should ordinarily be worked. Take a case where 47 hours a week are ordinarily worked, with a morning spell of 7.30 a.m. to noon on 6 mornings a week, noon to 1 p.m. as an interval, and afternoon work ordinarily from 1 p.m. to 5 p.m. The notice might fix a period of employment of 7.30 a.m. to 5 p.m. on Monday, Tuesday, and Wednesday, 7.30 a.m. to 5.30 p.m. on Thursday and Friday, and 7.30 a.m. to noon on Saturday.

(C) General conditions as to hours of employment in factories.

As mentioned above, there are certain general conditions with which schemes of factory hours for women and young persons must (subject to the adoption of any "Special Exception") comply. These are (*Sections 70 and 71*) :—

(a) Hours of work—weekly and daily limits. The total hours worked, exclusive of intervals allowed for meals and rest, must neither exceed *nine* in any day nor exceed *forty-eight* in any week (reckoning from midnight on Saturday night—*Section 152*).

As from the 1st July, 1939, *forty-four* is to be substituted for forty-eight in the case of young persons *under 16*; but if satisfied after the holding of an inquiry that certain conditions are fulfilled* the Secretary of State may by regulations increase the figure to some other figure not exceeding forty-eight for any class or description of factory or for a particular process.

* These conditions are (*S. 71*) :—

(a) that the industry carried on in that class or description of factory is, either generally or as respects a particular process, so dependent on the employment of such young persons and so organised that the carrying on of the industry would be seriously prejudiced unless the number of hours worked in a week by such young persons employed in that industry or in that process were permitted to exceed forty-four;

(b) that such increased hours would not be likely to be injurious to the health of the young persons; and

(c) that the work in which the young persons would be employed in that industry or process is particularly suitable for young persons, and that their employment would familiarise them with, and help to train them for employment in, processes in which older persons are employed in the industry and be likely to lead to their permanent employment in the industry.

(b) Maximum period of employment. The period of employment must not exceed *eleven* hours in any day and it must not begin earlier than 7 a.m. or end later than 8 p.m. (6 p.m. in the case of young persons under 16) or, on Saturday, 1 p.m.

Under the old Act the period of employment (except on Saturday) had to be a full twelve hours and had to begin and end at precisely six, seven or eight o'clock. In future this will not be necessary; for example, 7.30 a.m. or 8.15 a.m. could, in future, be specified as the commencement of the period of employment. Moreover, in future the period fixed by the notice need not (and in practice often would not) be as long as eleven hours. For example in the case mentioned on the previous page it would be unnecessary and inconvenient to fix 7.30 a.m. to 6.30 p.m. as the period of employment since the period from 5 p.m. (or 5.30 p.m.) to 6.30 p.m. would then have to be fixed as a statutory interval and this would interfere with overtime working.

(c) Maximum spell of work. The length of a spell of continuous employment must not exceed $4\frac{1}{2}$ hours and employment is deemed to be continuous unless interrupted by an interval of at least half-an-hour (*Section 152 (5)*). If, however, an interval of not less than ten minutes (to be specified in the notice) is allowed in the course of a spell the spell may extend to 5 hours.

(d) Simultaneous period and intervals. The periods of employment and intervals for meals and rest fixed by the notice to comply with the above conditions must be the same for all women and young persons employed in the factory except that the period of employment for those under 16 may end at an earlier hour than the period of employment for the others.

(D) **Overtime in Factories.** (*Sections 73 and 74.*)

Overtime employment of women and young persons *aged 16 or over* is authorized for dealing with pressure of work. As previously explained, "overtime" for the purposes of the Act means work in the factory outside the period of employment fixed for the day for the woman or young person in question by the notice fixing the normal scheme of hours.

Overtime is governed by the following restrictions:—

(i) (a) The hours of the woman or young person must not, on a day on which he or she works overtime, exceed 10 exclusive of the intervals allowed for meals or rest, or 12 inclusive of

such intervals, or begin earlier than 7 a.m. or end later than 8 p.m.—in the case of women 9 p.m.—or on Saturday 1 p.m. (As regards five-day week factories see below under “Special Exceptions”.)

(b) The usual rules as to the maximum spell of continuous employment and as to simultaneous intervals for meals or rest will apply ; the employer may, however, allow to those women or young persons who are to be employed overtime on any day an additional interval without being required to give it also to the other women or young persons who are not going to be employed overtime.

(2) The overtime for the factory :—

(a) must not exceed 100 hours in a calendar year (beginning with the 1st January) ;

(b) must not exceed 6 hours in any week (reckoning from midnight on Saturday night) ;

(c) must not take place in more than 25 weeks in any calendar year.

In calculating hours of overtime employment any fraction of an hour less than half-an-hour is to be treated as half-an-hour, and any fraction of an hour greater than half-an-hour is to be treated as an hour. Thus 10 or 20 minutes' overtime would reckon as half-an-hour, 40 minutes as 1 hour and $1\frac{1}{4}$ hours as $1\frac{1}{2}$ hours.

It will be observed that the second group of restrictions mentioned above are based on an overtime allowance for the *factory*. In reckoning the amount of overtime for the purposes of this allowance every period during which any woman or young person is employed overtime in the factory must be taken into account. For example, if women and young persons are employed overtime from 6 p.m. to 6.30 p.m. this will be debited as half-an-hour against the year's allowance of 100 hours (and also the 6 hours allowed for the week). But (i) the employment of persons in different parts of the factory, or (ii) the employment of different sets of persons in different processes may, subject to such conditions as may be prescribed, be treated for this purpose as employment in different factories, so that for example each part of the factory would be entitled to its own separate allowance of 100 hours. Further, in the case of any class of factory where the nature of the business involves the overtime employment of different persons on different occasions to such an extent that the provisions limiting overtime employment by reference to the factory would be unreasonable or inappropriate, the Secretary of State has power to make Regulations enabling the occupier of any particular factory of that class or

description to substitute provisions limiting overtime employment by reference to the individual employee. If such Regulations are made they must fix limits not exceeding 75 hours in a calendar year for each woman and not exceeding 50 hours for each young person.

The Secretary of State has also certain other powers to relax the restrictions on overtime in particular circumstances.

(1) He may, as respects a class of factory, increase for *women*, for not more than 8 weeks in the year, the hours of work and the period of employment allowed in a day.

(2) He may, as respects a class of factory, increase for *women* the factory allowance of 100 hours up to 150 hours. The effect would be that the factory allowance would be increased to (say) 150, but that young persons could only be employed overtime in 100 out of those 150.

(3) He may raise the limits of 6 hours in a week and 25 weeks in a year for a class of factory or, in the event of certain unforeseen emergencies, for a particular factory.

On the other hand he may reduce or prohibit overtime in certain circumstances, e.g., where it will prejudicially affect the health of the young persons, or where an Inquiry shows that it can be reduced without serious detriment to the industry (Sections 73 (4) and (5)).

Notice and Register of Overtime. *Before* employing any woman or young person in overtime on any day the occupier of the factory must send in writing to the District Inspector, *and* enter in a register to be prescribed, such particulars as may be prescribed of the overtime employment and of any special interval to be allowed—see paragraph (1) (b) on page 27 above.

It is not contemplated that the particulars should necessarily *reach* the Inspector before the overtime is commenced, but the notification should be *sent* to him and the necessary entries made in the register before its commencement.

Cases may occasionally occur in which the occupier proposes to work overtime for (say) half-an-hour and sends and enters in the register particulars to that effect, but afterwards finds that longer overtime is necessary on the day in question. In such cases the occupier should send a further notification and make a further entry in the register before the end of the first half hour.

The occupier of any factory in which women or young persons are employed in overtime is also required to post in the factory, and to keep posted for a prescribed time, a notice giving the required particulars relative to the overtime worked.

(E) Further general restrictions on employment in factories.

(1) Employment during intervals. A woman or young person must not be employed during any of the intervals fixed for that woman or young person by the notice, or be allowed to remain in a room in which a process is then being carried on (*Sections 70 (e) and 76*).

(2) Sunday Employment. Women or young persons must not be employed in a factory on Sunday (*Section 77*).

(3) Holidays (*Section 78*). Certain days in each year must be allowed by the occupier as whole holidays to every woman or young person employed in the factory. These are :—

(a) in England and Wales, Christmas Day, Good Friday, and Bank Holidays, or other days substituted by the occupier by notice posted in the factory throughout not less than three weeks before the Christmas Day, Good Friday or Bank Holiday ;

(b) in Scotland, six weekdays fixed by the occupier and notified by notice posted in the factory throughout not less than three weeks before the holiday, except that in burghs two of the days, which must be not less than three months apart, are to be fixed by the Town Council.

At least half of the whole holidays must be allowed between the 15th March and the 1st October.

The alternative of allowing two half-holidays instead of a whole holiday is no longer to be permitted.

There are "Special Exceptions" (see below) to each of the above three classes of restriction.

(F) Special Exceptions. (*Sections 81 to 97.*)

As previously explained (page 24), the general conditions which must be complied with in fixing the scheme of normal working hours for the factory may in certain cases be modified in various ways. A factory occupier who wishes to avail himself of one or more of these "special exceptions" (other than that in *Section 88*) must give notice to the District Inspector and in the factory of his intention to do so, not less than 7 days beforehand (*Section 97 (1)*). As from the date specified in the notice as that on which the special exception is to begin to apply to the factory, it will continue to apply until the notice is withdrawn by a further notice (*Section 97 (2)*).

Section 97 (3) provides for notice of the hours of those employed in pursuance of the special exception ; it is contemplated that in practice there would usually, as a matter of convenience, be posted in the factory a comprehensive notice showing the scheme of hours for all the women and young persons employed in the factory, which would be accepted as complying with both *Sections 72 and 97 (3)*.

The various special exceptions are as follows.

Factories operating the five-day week (Section 82). In a factory conducted on the system of employing women and young persons on not more than five days in the week :—

- (i) the total hours worked in any day may extend to 10 (instead of 9) or, in the case of women or young persons aged 16 or over working overtime, $10\frac{1}{2}$ (instead of 10) ;
- (ii) the period of employment in any day may extend to 12 hours.

Further, if no woman or young person is employed overtime on any other day in the week the section allows an alternative of working overtime (not exceeding $4\frac{1}{2}$ hours) on a sixth day in that week. The time worked on the sixth day would of course be debited against the 100 hours' overtime allowance.

Note that this Special Exception does not relax the general rules in Section 70 as to maximum weekly hours, work before 7 a.m. or after 8 p.m., and maximum spell of work.

Simultaneous mealtimes (Section 84). An exception from the rule that all women and young persons employed in the factory must have the statutory intervals at the same times is allowed for :—

- (a) persons employed in necessarily continuous processes ;
- (b) different sets of persons employed on different processes ;
- (c) different sets of persons necessarily divided into sets for the purpose of taking meals in a messroom or canteen provided and maintained by the occupier to the satisfaction of the District Inspector ;
- (d) other different sets of persons if approved by the Inspector.
- (e) Any class of factory to which the Secretary of State applies the Special Exception.

Remaining during the statutory intervals in a room in which a process is going on (Section 86). This is allowed :—

- (a) where persons are employed in a necessarily continuous process ;
- (b) where different sets of persons have different intervals ;
- (c) as respects an interval of less than half-an-hour allowed in the course of a spell.
- (d) for any class of factory to which the Secretary of State applies the Special Exception.

Employment during a statutory interval is allowed in the case of male young persons employed in the manufacture of wrought iron, steel or tinplate, or in the manufacture of paper or glass (*Section 85*). Five-hour morning spell (without the ten-minute break) is allowed for male young persons aged 16 or over employed with men if this is necessary to enable the men to carry on their work (*Section 87*). Commencement before 7 a.m. (but not before 6 a.m.) is allowed in cases and to the extent authorized by the Secretary of State (*Section 83*).

Saturday. Another short day may be substituted if the factory is one of a class for which this is authorized by the Secretary of State (*Section 89*). For newspaper printing offices or factories in which the nature of the work requires six full working days, he may authorize an alternative short day for *some* only of the women and young persons.

Sundays. Saturday may be substituted for Sunday as the prohibited day (with either Sunday or Friday as the short day) where both the occupier (or the majority of the partners or directors) and the employees concerned are of the Jewish religion or members of a religious body regularly observing the Jewish Sabbath. The factory must be closed on Saturday and must not be open for business on Sunday (*Section 91*).

Holidays on different days for different sets of women and young persons, may be allowed if the factory is one of a class for which this is authorized by the Secretary of State (*Section 90*).

Shifts of male young persons aged 16 or over in certain industries and processes (*Section 81*).* The industries and processes to which *Section 81* applies are fewer and more narrowly defined than under previous legislation on this subject. They are the smelting of iron ore, the manufacture of wrought iron, steel or tinplate, certain processes in which reverberatory or regenerative furnaces are used, the galvanising of sheet metal or wire (except the pickling process), the manufacture of paper, and the manufacture of glass.

The section authorizes, in the case of shift systems, employment before 7 a.m. and after 8 p.m. *on work which is by reason of the nature of the process required to be carried on continuously day and night.* The system may include a turn ending on Sunday morning not later than 6 a.m., and a turn beginning on Sunday evening not earlier than 10 p.m.; and in the case of a 4-shift system with turns of not more than 8 hours it may also include turns between 6 a.m. and 10 p.m. on Sundays.

* *Note.*—As regards authorizations from the Secretary of State to employ women and young persons of either sex (if aged 16 or over) in shifts between 6 a.m. and 10 p.m. in a particular factory in any industry, see the Employment of Women and Young Persons Act, 1936, which has not been repealed by the Factories Act, 1937.

Young persons taken into employment on one of the shift systems so authorized must not continue to be so employed after a prescribed period (not less than 7 days) without a Certificate of Fitness for such employment from the Examining Surgeon ; and they must be re-examined at intervals not exceeding six months.

The section also authorizes the employment of male young persons aged 16 or over, in the industries and processes above-mentioned, on weekdays between 6 a.m. and 10 p.m. on a system of shifts. Such employment does not involve the necessity of obtaining a Certificate of Fitness, nor is it restricted to the necessarily continuous work mentioned in italics above. It should be noted that the system must not be so arranged as to infringe the Employment of Women, Young Persons and Children Act, 1920, which (except for such continuous work) requires a night interval of at least eleven consecutive hours.

The total hours worked by young persons employed on any of the systems of shifts authorized by this section may exceed 48 in any week but must not exceed 56 in any week or 144 in any continuous period of 3 weeks.

The systems must conform to the following conditions as respects young persons :—

- (a) not more than 6 turns of work a week ;
- (b) not less than 14 hours between successive turns ;
- (c) employment between midnight and 6 a.m. not allowed in consecutive weeks.

These conditions may be modified by the Secretary of State for glass works or for four-shift systems.

The general restrictions as to the length of a spell of continuous employment and as to simultaneous meal times will apply to employment on these systems, but employers can (on giving the necessary notice), avail themselves of the "Special Exceptions" relating to those restrictions if applicable to their works.

The provisions authorizing overtime do not apply to young persons employed in accordance with the provisions of this section.

Laundries (*Section 92*). For the purpose of meeting, without overtime, pressure of work recurring on particular days of the week, the scheme of hours for *women* in laundries may be so arranged that they have a longer day on not more than two specified weekdays (other than Saturday), the hours on one or more other days in the week being adjusted to secure that the weekly maximum of 48 is not exceeded. On these specified days the total hours worked by the women may be more than nine but not more than ten, and their period of employment may be up to 12 hours and may begin at any time not earlier than 6 a.m. and end at any time not later than 9 p.m.

This special exception does not preclude overtime working ; but the overtime provisions would of course have to be observed, so that, for example, *Section 73 (2) (a)* would (subject to any modification allowed by the Secretary of State—see (1) on page 28), prevent the overtime employment of women on any day on which they had already worked ten hours in pursuance of the special exception.

The fixing of a special scheme of hours for women might be prevented by the general requirements as to periods of employment and intervals being the same for all women and young persons, and the Secretary of State is therefore given power in the Section to modify these requirements.

Manufacture of bread or flour confectionery (including meat or fruit pies) or sausages (Section 93). There is a special exception similar to the last for *women* employed in these processes.

Preserving of fish, fruit and vegetables (Section 94). The scope of this special exception is somewhat different from that of a similar exception in the Act of 1901. It does *not* now apply to young persons under 16 but applies to the employment of older young persons and women in processes connected with

- (a) the preserving, canning or curing of fish *or the preparing of fish for sale*, or
- (b) the preserving or canning of fruit *or vegetables* during June, July, August and September,

where such processes require to be carried out without delay in order to prevent goods from being spoiled. Where the occupier avails himself of this special exception he will be relieved from compliance with the ordinary provisions as to hours and annual holidays but will have to comply with any conditions which the Secretary of State may prescribe.

Factories where milk is treated (Section 95). The Secretary of State may make regulations varying the ordinary provisions as to hours, Sunday employment and annual holidays, so far as they relate to women and young persons *aged 16 or over*, in the case of factories in which cream, butter or cheese is made or fresh milk or cream is sterilised or otherwise treated before being sold as such. The effect of the special exception will therefore depend on what regulations are made.

Male young persons employed on repairing work (Section 88). This special exception takes the place of a wider and vaguely worded

provision in the Act of 1901. It applies to male young persons employed as part of the *regular maintenance staff* of a factory or by a contractor, in repairing any part of the factory or any machinery or plant therein. The ordinary provisions as to hours, Sunday employment and annual holidays will not apply to such young persons, but the Secretary of State may prescribe other conditions. An occupier availing himself of this special exception need not give notice of the fact under *Section 97*.

(G) Employment outside the Factory.

The new Act places extended restrictions on the employment of women and young persons partly inside and partly outside* a factory in the business of the factory or *in any other business carried on by the occupier*. These restrictions relate not only to days on which the woman or young person is employed in the factory but also to employment on Sundays and on the factory holidays (see *Sections 75, 77 and 78 (4)*).

A woman or young person must not on any day on which he or she is employed in the factory be employed in such a business at times which will conflict with the factory scheme of hours and intervals (*Section 75*). For example, a woman or young person whose dinner interval under the factory notice is noon to 1 p.m. must not be employed during any part of that time in any business carried on by the occupier. Again, a woman or young person employed in a factory where the period of employment for the day ends (say) at 6 p.m. must not be employed after that hour in any such business.

The section, however, provides that a woman or young person *aged 16 or over* may be employed by the occupier of the factory *in a shop* outside the period of employment (but not during the intervals). In that case the provisions as to factory overtime will apply, so that any employment in the shop outside the factory period of employment as fixed by the factory notice will reckon as if it were overtime in the factory and be debited against the yearly and weekly overtime allowances for the factory; moreover, notice of such overtime must be given and it must be entered in the factory overtime register—see page 28. The other restrictions in Part VI (for example as to the length of a spell of continuous employment) will also apply.

* As regards young persons employed in certain occupations (van boys, etc.) who work *wholly or mainly outside* the factory, see (H) below.

(H) Hours of Young Persons employed in certain occupations. (Section 98.)

As explained in paragraphs (1) and (2) on pages 22 and 23, different provisions as to hours are applied to young persons employed in certain occupations wholly or mainly outside the factory or in certain occupations connected with docks, wharves, quays or warehouses, though the employer may, by notice to the Factory Inspector, substitute the provisions as to factory hours.

These other provisions are not (like those as to factory hours) based on the plan of having a notice fixing the scheme of hours for all the young persons so employed by the firm, but lay down various conditions with which the employment of each such young person must conform and require the employer to keep a record (in the prescribed form and manner) of the hours actually worked by and the intervals allowed to each such young person. These conditions are as follows.

(1) Total hours worked in any week, exclusive of intervals allowed for meals and rest, are not to exceed 48 (apart from overtime).

As from the 1st July, 1939, this is to be reduced to 44 for young persons under 16, subject (as in the case of factories) to a power of the Secretary of State to authorize a higher figure in certain circumstances.

(2) Spell of continuous employment is *not to exceed 5 hours* without an interval of at least half-an-hour.

(3) Where the hours of employment include the hours from 11.30 a.m. to 2.30 p.m. an interval of not less than *45 minutes* is to be allowed between those hours for dinner.

(4) There must be a night interval of at least 11 consecutive hours including 10 p.m. to 6 a.m.

(5) Sunday employment is prohibited (subject to a special exception as to persons observing the Jewish Sabbath).

(6) Certain days must be allowed by the employer as annual holidays (as in the case of factories).

Overtime (meaning work in excess of 48 hours in a week) may be worked by a young person *aged 16 or over* on occasions of seasonal or other special pressure or in cases of emergency subject to the following limitations :—

(a) His hours of overtime work must not exceed *six* in any week or *fifty* in any calendar year ;

(b) where an employer has employed overtime any young persons to whom *Section 98* applies in *twelve weeks* (whether consecutive or not) in a calendar year, neither he *nor any person succeeding to his business* may employ young persons to whom the section applies overtime during the remainder of the year. Thus, it would be illegal to employ some of the factory van boys overtime in twelve weeks and then to employ others overtime in other weeks in the year.

In reckoning the above hours of employment, and also for the purpose of allowing the intervals, any other employment of the young person by the same employer must be taken into account (*Section 98 (3)*). The employer must not employ him in *any* employment on Sunday or on one of the holidays.

CERTIFICATE OF FITNESS FOR EMPLOYMENT OF YOUNG PERSONS

(*Sections 99 and 100.*)

The new provisions on this subject continue with modifications the system under which a young person under 16 taken into any employment in a factory must not remain in that employment after the expiration of a prescribed period (not less than 7 days) unless he has been examined by the Certifying Surgeon (in future "Examining Surgeon") and obtained from him a Certificate of Fitness. The main changes are as follows:—

(1) The provisions apply to all factories in the new sense, and not merely to "factories" and certain "workshops" in the old restricted sense of those terms; but the Secretary of State can exempt any class of factory in which mechanical power is not used.*

(2) The certificate must be a positive one that the young person is fit for the employment, and not merely a negative certificate that he is not incapacitated for working full legal hours in the factory.

(3) Further provision is made for attaching conditions to the certificate, including conditions as to re-examination, and the Examining Surgeon may extend the operation of the conditions beyond the age of 16 (but not beyond 18). He may also revoke a certificate.

* As to the meaning of this see footnote on page 7.

(4) Specific provision is made for the officers of Local Education Authorities to assist the Examining Surgeon with confidential information as to the medical history of a young person.

(5) The Secretary of State is empowered to make rules dealing among other things with the place of examination and with the facilities to be afforded by factory occupiers.

As under the earlier Act, the fees of the Examining Surgeon for examinations and certificates under this section are payable by the occupier of the factory. Subject to any agreement between the occupier and the Surgeon as respects the fees, their amount will be determined by the Secretary of State (*Section 127*).

PART VII.—SPECIAL APPLICATIONS AND EXTENSIONS

1. Premises in respect of which owner is liable. (*Sections 101 and 102.*)

These two sections deal with two classes of case, namely (a) "tenement factories" (*Section 101*), and (b) other buildings of which a part is let off as a separate factory—as for example, where one or more floors of a building are let off as a factory or factories and the other floors are used as shops or offices (*Section 102*). The provisions in *Section 102* are *new*, and place certain obligations on the *owner of the building* both as regards a part let off as a factory and also as regards other parts of the building used for the purposes of the factory.

"Owner" is defined in *Section 152*.

(a) Tenement factories.

"Tenement factory" is defined in *Section 152*. Roughly, it means premises at least two parts of which are occupied by different persons as separate factories, and supplied with mechanical power for use in manufacturing processes from a prime mover *within the close or curtilage of the premises*. The parts occupied as separate factories are called "tenements," and the whole premises are the tenement factory. A common class of case is where the owner of the tenement factory runs an engine in the basement which supplies motive power to the machines in various tenements let off to small employers or to groups of persons working on their own account.

Section 101 indicates in detail the respective responsibilities of the owner and of the tenement occupiers. Broadly speaking the

owner is responsible for structural requirements, and for the provision and maintenance of fencing and safety appliances for machinery or plant not belonging to or supplied by tenement occupiers; and he is responsible (as under existing law) for the notices fixing hours of employment, etc. (except that a tenement occupier may post his own notice fixing hours). He is also responsible for the notification of accidents except in the case of a room occupied by not more than one tenant. Some of his other responsibilities also depend on whether the room is occupied by more than one tenant. As regards those parts of the tenement factory not let off as separate tenements, he is responsible for the provisions of the Act generally.

(b) Buildings under Section 102.

The owner is made responsible for the observance of the following provisions of the Act :—

As regards parts of the building (such as passages, stairs, lifts, etc.) used for the purposes of the factory but not comprised therein.

Part I—cleanliness and lighting (*Sections 1 and 5*).

Part II—prime movers and transmission machinery (*Sections 12 and 13*), hoists and lifts (*Section 22*), steam boilers (*Section 29*), and the construction and maintenance of floors, passages and stairs (*Section 25*).

As regards the factory.

Part I—sanitary conveniences (*Section 7*)—but not for their *cleanliness* unless used in common by several tenants.

Part II—hoists and lifts (*Section 22*), steam boilers (*Section 29*), means of escape in case of fire (*Section 34*), and safety provisions in case of fire (*Section 36*)—but only in so far as the provisions of these sections relate to matters within the owner's control.

For the purposes of Sections 34 and 36 (as to fire), the factory is deemed to include any parts of the building used for the purpose of the factory.

2. Electrical Stations. (*Section 103.*)

The present section deals, not with electrical apparatus in ordinary factories (which, like other plant in the works, can be dealt with under other provisions of the Act), but with electrical operations carried on in electrical generating stations and elsewhere for supply purposes.

Under the Act of 1901, provision was made for certain electrical generating and transforming stations by including them in the

general definition of "factory". Under the new Act, electrical stations are not included in the general definition of "factory" in Section 151,* but are dealt with on special lines in the present section, which will have a wider application.

The scheme of Section 103 is as follows :—

(1) Premises in which persons are *regularly* employed in or in connection with the processes or operations of generating, transforming *or converting, or of switching, controlling or otherwise regulating* electrical energy for supply by way of trade, or for *supply* for the purposes of any *transport undertaking* or other industrial *or commercial* undertaking or of any public building or public institution or for *supply* to streets or other public places. Such premises are treated as factories for all purposes, i.e., the full provisions of the Act are applied to them ; and those who employ persons in such premises in or in connection with any of the processes or operations mentioned above will have the responsibilities of factory occupiers for seeing that the provisions of the Act are observed.

The main changes from the old law are indicated in italics above ; it will be noticed that there is no longer a limitation to supply for *lighting* purposes so that, for example, the new Act will extend to the transforming or switching stations of industrial or commercial undertakings or public institutions from which electricity is supplied whether for power or lighting purposes. On the other hand it is not intended (see *Subsection (4)*) to bring in places where people are merely engaged in working apparatus which consumes electricity such as electric motors or heaters or electro-medical apparatus, or in working telegraphic or radio transmitters or receivers or loud speakers.

(2) Premises as above in which persons are *not regularly* employed, but which are large enough to admit the entrance of a person after the machinery or plant is in position. In such cases only certain provisions of the Act are applied, namely those as to :—

- (i) notification and investigation of accidents ;
- (ii) special regulations for safety and health (*Section 60*) ;
- (iii) inspection, penalties, definitions, etc.

(3) The Secretary of State has power to apply the provisions mentioned in (2) to electrical supply apparatus elsewhere.

* Section 103 (5) provides that for the purposes of that definition electrical energy shall not be deemed to be an article.

3. Charitable and reformatory institutions. (Section 104.)

This section is practically the same as Section 5 of the Factory and Workshop Act, 1907. The new provisions as to hours, etc., will of course apply, and existing schemes of hours based on the old provisions will therefore be superseded.

4. Docks, Wharves, Quays, Warehouses and Ships. (Sections 105 and 106.)

Section 105 is based on a similar section (104) in the Act of 1901, but additional provisions of the Act are applied, especially as regards warehouses, and the warehouses to which the section applies are more precisely indicated.

Subsection (1) applies certain provisions of the Act to :—

(a) docks, wharves and quays (including dock warehouses and dock lines and sidings not forming part of a public railway or tramway as defined in *Section 152*) ;*

(b) other warehouses (except those in factories, which are treated as part of the factory) in or for the purposes of which mechanical power is used.

The provisions of the Act applied include those relating to :—

(i) notification and investigation of accidents ;

(ii) steam boilers ;

(iii) regulations for safety, health, and welfare ;

(iv) abstracts, notices, general registers, etc. (*Sections 114 to 117*)—subject to any modifications made by the Secretary of State. It is contemplated that each employer should keep a register relating to his own employees ;

(v) duties of persons employed, deductions from wages, and weights and measures (*Sections 119 to 121*).

In addition, the following provisions are applied by *Subsection (3)* to the *warehouses* above-mentioned :—

(vi) safeguarding machinery (*Sections 12 to 17*) ;

(vii) cleaning machinery by women and young persons and training of young persons (*Sections 20 and 21*) ;

(viii) hoists and lifts, cranes, lifting tackle, etc. (*Sections 22 to 24*) ;

(ix) floors, passages and stairs (*Section 25*).

As regards the *loading, unloading and coaling of ships*, provisions (i) to (v) above are applied except the power to make welfare regulations ; but (ii) does not apply to the ship's boilers.

* "Railway" means any railway used for the purposes of public traffic whether passenger, goods, or other traffic and includes any works of the railway company connected with the railway.

"Tramway" means a tramway authorised by or under any Act of Parliament and used for the purpose of public traffic.

The existing Docks Regulations will continue in force unless and until modified by the Secretary of State.

Section 106 is new. It applies certain provisions of the Act to work carried out in a harbour or wet dock in :—

- (a) constructing, reconstructing, repairing, refitting, painting, finishing or breaking up a ship ;
- (b) scaling, scurfing or cleaning boilers (including combustion chambers and smoke boxes) in a ship ;
- (c) cleaning oil-fuel tanks or bilges in a ship.

The provisions of the Act applied include those relating to :—

- (i) notification and investigation of accidents ;
- (ii) regulations for safety, health, and welfare ;
- (iii) hours of employment of women and young persons (but not Sunday employment and annual holidays) subject to any modifications made by the Secretary of State ;
- (iv) general registers and preservation of registers and records (*Sections 116 and 117*) ;
- (v) duties of persons employed and deductions from wages (*Sections 119 and 120*).

This section does not apply to such work as is mentioned above done by the master or crew of a ship or done on board a ship during a trial run, which is excluded from the Act.

Shipbuilding yards and dry docks are “factories” which are subject to the Act generally—see page 47.

5. Building operations. (Section 107.)

The application of certain provisions of the Factory Acts to building operations will be much extended. The old limitation to cases where mechanical power is used is abolished and there is a comparatively wide definition* of “building operation” (see *Section 152*) which includes demolition. The following provisions are applied to building operations undertaken by way of trade or business or for the purpose of any industrial or commercial undertaking and to any line or siding which is used in connection therewith and for the purposes thereof and is not part of a public railway or tramway as defined in *Section 152†* :—

- (i) notification and investigation of accidents ;
- (ii) regulations for safety, health, and welfare ;

* “Building operation” means the construction, structural alteration, repair or maintenance of a building (including re-pointing, re-decoration and external cleaning of the structure), the demolition of a building, and the preparation for, and laying the foundation of, an intended building, but does not include any operation which is a work of engineering construction within the meaning of this Act.

† See footnote on page 40.

- (iii) sanitary conveniences (*Section 7*) ;
- (iv) steam boilers and air-receivers (*Sections 29, 31 and 32*) ;
- (v) abstracts, notices and general registers, etc. (*Sections 114 to 117*) ; but the general register may be kept at an office of the person undertaking the operations instead of at the site of the operations, and the abstract, etc., may, instead of being posted at that site, be posted at each office yard or shop at which persons employed by him on the operations attend ;
- (vi) duties of persons employed and deductions from wages (*Sections 119 and 120*) ;
- (vii) provisions as to inspection, enforcement, definitions, etc.

Notifying building operations to the District Inspector. There are important new requirements on this subject. Any employer, whether a contractor or sub-contractor or an industrial or commercial concern carrying out building operations for the purpose of its undertaking, must, not less than 7 days after beginning any building operations to which the Act applies, notify to the District Inspector his name and address, the place and nature of the operations, whether any mechanical power is used and if so its nature, the name of the Local Authority* within whose district the operations are situated and any other prescribed particulars. But there are two exceptions to this requirement :—

- (a) for operations which the person undertaking them has reasonable ground for believing will be completed in a period of less than 6 weeks, and
- (b) where other building operations are already in progress on the site and have been notified to the Inspector.

6. Works of Engineering Construction. (*Section 108.*)

This section is new. It applies certain provisions of the Act to “works of engineering construction” (as defined in *Section 152*)† undertaken by way of trade or business, or for the purpose of any industrial or commercial undertaking, and to any line or siding which is used in connection therewith and for the purposes thereof

* See footnote on page 8.

† “Work of engineering construction” means the construction of any railway line or siding otherwise than upon an existing railway, and the construction, structural alteration or repair (including re-pointing and re-painting) or the demolition of any dock, harbour, inland navigation, tunnel, bridge, viaduct, waterworks, reservoir, pipe-line, aqueduct, sewer, sewage works, or gasholder, except where carried on upon a railway or tramway, and shall include such other works as may be specified by regulations of the Secretary of State. As regards the meaning of “railway” and “tramway”, see footnote on page 40.

and is not part of a railway or tramway as defined in *Section 152*. The provisions in question are the same as those applied to building operations ; and there are also similar provisions as to notifying works of engineering construction to the District Inspector.

7. Lead Processes carried on in places other than factories (*Section 109*.)

This section re-enacts the Women and Young Persons (Employment in Lead Processes) Act, 1920, as respects places other than factories. Note that it applies to all persons under 18, as well as to women, and not merely to young persons over 14. As regards factories, see above under Part IV—page 22.

PART VIII.—HOME WORK (*Sections 110 and 111*)

These sections re-enact with some modifications Sections 107 and 108 of the Act of 1901, requiring lists of outworkers to be kept in certain trades, and empowering the district council by notice to prohibit the giving out of work to be done in a place dangerous to the health of the persons employed there. The main changes are :—

- (i) the lists are to be sent to the district council *during* February and August (not, as previously, on or before the 1st February and 1st August) and are to show all outworkers employed *during the previous six months* ;
- (ii) it is made clear in *Section 110 (4)* that that section applies to outwork irrespective of whether the materials for the work are supplied by the occupier or not ; and
- (iii) the period for compliance with a notice under *Section 111* is reduced from one month to ten days ; and the notice must indicate the Council's reasons for regarding the place as dangerous.

PART IX.—PARTICULARS OF PIECE WORK AND WAGES (*Section 112*)

This section substantially re-enacts existing law (*Section 116* of the Act of 1901). It requires certain particulars (as to the rate of wages applicable to the work, and as to the work to which that rate is to be applied) to be published in textile factories where persons are paid by the piece, to enable them to compute the total amount of wages payable. The Section also empowers the Secretary of State to impose similar requirements as respects any other class of factory and as respects outworkers. Orders of this kind made under the old Act for various trades will continue in force unless and until modified by the Secretary of State. Attention is drawn to the new definition of " textile factory " in *Section 112 (6)*.

PART X.—MISCELLANEOUS

This Part re-enacts with some minor changes the provisions of the old Act as to notice of occupation of a factory, posting up of abstracts and notices, general registers, returns of persons employed, and weights and measures used for checking or ascertaining wages. It also contains in *Section 119* an important new general provision as to duties of persons employed, and in *Section 120* a provision (previously more limited in scope) making it an offence for the occupier (a) to make deductions from wages in respect of anything which he has to do or provide under the obligations imposed by the Act, or (b) to permit any person in his employment to receive payment from other employees for such services (for example, for keeping sanitary conveniences clean).

If, after the commencement of the new Act, mechanical power is introduced in a factory in which it was not used, the occupier must notify the District Inspector, stating the nature of such mechanical power (*Section 113 (2)*).

The new provision as to duties of persons employed is as follows :—

(1) No person employed in a factory or in any other place to which any provisions of this Act apply shall wilfully interfere with or misuse any means, appliance, convenience or other thing provided in pursuance of this Act for securing the health, safety or welfare of the persons employed in the factory or place, and where any means or appliance for securing health or safety is provided for the use of any such person under this Act, he shall use the means or appliance.

(2) No person employed in a factory or in any other place to which any provisions of this Act apply shall wilfully and without reasonable cause do anything likely to endanger himself or others.

PART XI.—ADMINISTRATION

Sections 122 to 125 deal with the appointment, duties and powers of Factory Inspectors, in much the same terms as Sections 118 to 121 of the Act of 1901.

Sections 126 and 127 deal with the appointment, duties and fees of Examining Surgeons (previously called Certifying Surgeons). There is no substantial change in the law except that *Section 126 (3)* (which bars a medical practitioner from acting as Examining Surgeon for a particular factory if he has an interest in it or in any patent connected with it) expressly empowers the Secretary of State to authorize a Works Doctor or other medical practitioner, if he has no interest in the factory apart from medical supervision, to act as Examining Surgeon for that factory for the purpose of examining and certifying the fitness of young persons.

Section 128 deals with the expenses of Local Authorities and the powers and duties of the Council and their officers. The powers of entry and inspection may only be exercised by officers of the Council authorized by the Council in writing, either generally or specially, and any such officer must if so required produce his authority to the occupier or other person holding a responsible position of management at the factory. There is also a new provision imposing a penalty for improper disclosure of information.

Section 129 deals with the procedure for making regulations and orders of the Secretary of State.

PART XII.—OFFENCES, PENALTIES AND LEGAL PROCEEDINGS

This Part of the Act has been modernized but is much on the same lines as before. Attention is, however, drawn to the following changes in particular :—

(1) The rather cumbrous arrangement of having different penalty sections for not keeping a factory in conformity with the Act, for illegal employment, and for breaches of regulations, is dropped, and there is a general provision (*Section 131*) fixing, for offences for which no express penalty is provided elsewhere in the Act,* a fine not exceeding £20 plus £5 for each day on which the contravention is continued after the conviction. In cases of illegal employment this penalty can be imposed in respect of each person illegally employed (*Section 130 (4)*). The new Act also continues the special provision for a penalty up to £100 where a person is killed or injured in consequence of a contravention of the Act by the occupier of a factory, and extends it to contraventions by owners.

(2) *Section 130 (2)* provides that in the event of a contravention by an employed person of *Section 119* (see above under Part X) or of a contravention by any person of any regulation or order made under the Act which *expressly* imposes any duty upon him, the occupier or owner, as the case may be, shall not be guilty of an offence in respect of that contravention unless it is proved that he failed to take all reasonable steps to prevent the contravention.

(3) In cases where under *Section 137* of the new Act (which corresponds with *Section 141* of the Act of 1901) the occupier or owner of a factory wishes to lay an information against

* For special penalties, see for example *Sections 17 (2), 29 (12), 34 (1), 62 (4), 112 (4), 128 (6)* and *135*.

another person whom he charges as the actual offender, he must give the prosecution not less than three days' notice of his intention to do so.

There are also two new provisions (*Sections 146 and 147*) enabling the owner or occupier to apply to the County Court (a) for modification of an agreement between the owner and occupier which prevents the carrying out of alterations in the premises necessary for compliance with the Act, or (b) for apportionment of the expenses of such alterations as between the owner and the occupier. The latter provision appeared in the Act of 1901 in a more limited form.

PART XIII.—APPLICATION OF ACT

This Part deals with the application of the Act to Crown factories and also contains a section to make it clear (a) that except where otherwise expressly provided the provisions of the Act apply only to factories as defined by the Act, and (b) that except where the contrary intention appears, the provisions apply to all such factories.

PART XIV.—INTERPRETATION AND GENERAL

Interpretation of expression “factory.” (*Section 151.*)

The general plan of this section is :—

- (A) to lay down a general definition of “factory,” (in much the same terms as the old general definitions of “factory” and “workshop,”) covering places where articles are made, altered, repaired, etc., by way of trade or for purposes of gain ;
- (B) to apply the Act specifically to various classes of premises in some of which the work might be held not to be carried on by way of trade or for purposes of gain, or where other doubts as to the application of the general definition might arise ;
- (C) to add supplementary provisions as to the inclusion or exclusion of certain places or premises.

(A) The general definition is in the following terms :—

“ Subject to the provisions of this section, the expression “factory” means any premises in which, or within the close or curtilage or precincts of which, persons are employed in manual labour in any process for or incidental to any of the following purposes, namely :—

- (a) the making of any article or of part of any article ; or
- (b) the altering, repairing, ornamenting, finishing, cleaning, or washing, or the breaking up or demolition of any article ; or

(c) the adapting for sale of any article ;

being premises in which, or within the close or curtilage or precincts of which, the work is carried on by way of trade or for purposes of gain and to or over which the employer of the persons employed therein has the right of access or control."

It will be noted that the definition is extended to cover the cleaning or washing or the breaking up or demolition of articles by way of trade or for purposes of gain.

In applying the above definition in practice, it may be kept in mind that, although the words themselves are very wide, the Courts have, when considering similar words in the old definitions, had regard to the general scope of the Factory Acts as indicated by the nature of its provisions. For instance, the Factory Acts have not been regarded as applying to farming or to any incidental work carried on by the farmer such as grinding meal for his cattle, even though this may involve the making or alteration of an article. Again, while there are often workshops under the Factory Acts (for example millinery or florists' workrooms) next to or actually forming part of a shop, the Factory Acts have not been regarded as applying to a shop merely because the shop assistants occasionally make up a box of sweets or a button-hole. It is not anticipated that the new general definition will, apart from the extension to cleaning, washing, breaking up and demolition, make much difference in practice.

The word "premises" is often used in *Section 151*. It is contemplated that this would not necessarily mean the whole of the building, even though occupied by a single Firm or Undertaking, where parts of the building are used for purposes other than that of a factory. Moreover, there is in *Subsection (6)* a provision, corresponding to one in the old Act, to the effect that where a place within a factory is solely used for some purpose other than the processes carried on in the factory, it is not to be treated as part of the factory.

(B) Irrespective of whether they fall within the general definition, the Act is specifically applied to the following classes of premises where persons are employed in manual labour.

(i) any yard or dry dock (including the precincts thereof) in which ships or vessels are constructed, reconstructed, repaired, refitted, finished or broken up.

This is similar to the old definition of "shipbuilding yard" but reconstruction, refitting, and breaking up are now specially mentioned. (As regards the construction, etc., of ships in wet dock see page 41 above.)

(ii) any premises in which the business of sorting any articles is carried on as a preliminary to the work carried on in any factory or incidentally to the purposes of any factory.

This item is new. There has been a good deal of doubt as to the application of the Act to the business of sorting when carried on elsewhere than in an ordinary factory.

(iii) any premises in which the business of washing or filling bottles or containers or packing articles is carried on incidentally to the purposes of any factory.

This item is also new. The old Act applied to "bottle washing works" without defining them, and difficult questions have arisen as to the application of the Act to the washing or filling of bottles in connection with a factory. Note that the new paragraph also refers to containers and to the packing of articles.

(iv) any premises in which the business of hooking, plaiting, lapping, making-up or packing of yarn or cloth is carried on.

This re-enacts part of the old definition of bleaching and dyeing works. The processes mentioned, which are carried on mainly in cloth warehouses, might be thought not to be covered by the general definition.

(v) any laundry carried on as ancillary to another business, or incidentally to the purposes of any public institution.

This re-enacts the old definition in the Act of 1907, so far as it may not be covered by the extension of the general definition above to include washing carried on by way of trade or for purposes of gain.

(vi) any premises in which the construction, re-construction or repair of locomotives, vehicles or other plant for use for transport purposes is carried on as ancillary to a transport undertaking or other industrial or commercial undertaking, not being any premises used for the purpose of housing locomotives or vehicles where only cleaning, washing, running repairs or minor adjustments are carried out.

This item is inserted to clarify the position as regards locomotive shops, garages, etc., which might be held not to be carried on "by way of trade or for purposes of gain" though carried on incidentally to another business.

(vii) any premises in which printing by letterpress, lithography, photogravure, or other similar process, or bookbinding is carried on by way of trade or for purposes of gain or incidentally to another business so carried on.

This is a modernized form of the old definition of letterpress printing works, extended to make it clear that the Act applies where such processes are carried on incidentally to another business carried on by way of trade or for purposes of gain.

(viii) any premises in which the making, adaptation or repair of dresses, scenery or properties is carried on incidentally to the production, exhibition or presentation by way of trade or for purposes of gain of cinematograph films or theatrical performances, not being a stage or dressing-room of a theatre in which only occasional adaptations or repairs are made.

This item is inserted to make it clear that the Act applies to work-rooms where theatrical costumes, etc., are made or repaired even where the work is carried out by the undertaking which is producing the performance, and whether the workroom is at the theatre or elsewhere.

(ix) any premises in which the business of making or mending nets is carried on incidentally to the fishing industry.

This brings in net making or net mending premises where the business is carried on by employers who are also owners of fishing vessels, for the purposes of their trade. The High Court had held that such premises were not under the old Act on the ground that in such cases the gain to the employers was only indirect.

(x) any premises in which mechanical power is used in connection with the making or repair of articles of metal or wood incidentally to any business carried on by way of trade or for purposes of gain.

This reproduces part of the old definition of "metal works" but extends to articles of wood. On the other hand it is limited to cases where the articles of metal or wood are made or repaired incidentally to a business carried on by way of trade or for purposes of gain. Thus, a workroom attached to a shop, in which wooden display stands are made for the shop with the use of mechanical power, would be brought in, but the carpenter's shop of a private estate not carried on for trade or gain would not.

(xi) any premises in which the production of cinematograph films is carried on by way of trade or for purposes of gain, so, however, that the employment at any such premises of theatrical performers within the meaning of the Theatrical Employers Registration Act, 1925, and of attendants on such theatrical performers shall not be deemed to be employment in a factory.

This item is new. It makes it clear that the Act applies to film studios, but the employment of theatrical performers and their attendants, such as "dressers," is not covered.

(xii) any premises in which articles are made or prepared incidentally to the carrying on of building operations or works of engineering construction, not being premises in which such operations or works are being carried on.

This item is also new. It was doubtful whether builders' yards were subject to the old Act.

(xiii) any premises used for the storage of gas in a gasholder having a storage capacity of not less than five thousand cubic feet.

This brings in large gasholders irrespective of whether they are in the gas works or situated elsewhere.

(C) Supplementary provisions.

(i) A private line or siding* used in connection with and for the purposes of a factory is to be treated as part of the factory; if it

* i.e., any line or siding which is not part of a "railway" or "tramway". As to the meaning of these expressions see footnote on page 40.

serves two factories belonging to different occupiers it is to be treated as a separate factory. (But see (5) below.) Note that such lines and sidings will now become subject to the provisions of the Act generally; under the old Act, only certain provisions were applied to them.

(2) Workplaces. Workplaces in which, with the permission of or under agreement with the owner or occupier, two or more persons carry on any work which would make the workplace a factory if the persons working therein were employed by the owner or occupier, are to be factories; and except in the case of tenement factories (as to which see above under Part VII) the owner or occupier will be treated as the occupier of the factory and the persons working therein as persons employed in the factory (*Section 151 (4)*). This provision is based on the old definition of "tenement workshop."

(3) Mine and Quarry premises. *Section 151 (5)* excludes from the Factory Acts such premises, in or adjacent to a quarry or mine, in which the only process carried on is a process ancillary to the getting, dressing or preparation for sale of minerals. This line of demarcation between the spheres of the Factory Acts on the one hand and the Mines and Quarries Acts on the other, corresponds to that already adopted in the Coal Mines Act of 1911. In the case of metalliferous mines and quarries, those surface processes which will now be excluded from the Factory Acts were partly regulated by those Acts, and *Section 158* of the new Act gives the Mines Department of the Board of Trade further powers to deal with them.

It is often found convenient, in order to save duplicate inspections, that the Mines Inspector should inspect all the surface processes at a particular mine or quarry including some which are under the Factory Acts, or that the Factory Inspector should do so even though the works are partly regulated under the Mines or Quarries Acts. Arrangements for this purpose are specially authorized by *Section 158 (4)*. They do not, of course, alter the line of demarcation between the two sets of Acts and Regulations.

(4) Works of municipal or other public authorities, as well as Crown works, and building operations and works of engineering construction undertaken by them, are not to be excluded from the Act *merely* because they are not carried on by way of trade or for purposes of gain.

(5) If the Chief Inspector approves in writing, a part of a factory may be treated for all purposes as a separate factory, or two or more factories may be treated as a single factory. Further, the Secretary of State can authorize the separate treatment of different branches or departments of work in a factory for the purpose of either some or all of the provisions of the Act.

Other definitions. (*Sections 152 and 153.*)

Most of these have been referred to earlier in this pamphlet.

General. (*Sections 154 to 160.*)

The remaining sections of the Act are mainly formal or have already been mentioned. The new Act is not to affect the definitions of "factory" and "workshop" for the purposes of the Rating and Valuation (Apportionment) Act, 1928 (known as the Derating Act).

